



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 24 2018

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

IN THE MATTER OF:

Ever Cat Fuels LLC (EPA Company ID: 3255)

ATTENTION:

Mr. Steven Rupp
Vice President
Ever Cat Fuels LLC
617 Pierce Street
Anoka, MN 55303

Request for Information under Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a)

The United States Environmental Protection Agency (EPA) hereby requires Ever Cat Fuels LLC (Ever Cat or you), to submit certain information as part of an EPA investigation to determine Ever Cat's compliance with Section 211 of the Clean Air Act (CAA), 42 U.S.C. § 7545, and the Renewable Fuel Standard Program at 40 C.F.R. Part 80, Subpart M (RFS Program). This letter, and the enclosed appendices, are collectively referred to as the Information Request. Appendix A provides instructions for responding to the Information Request. Appendix B provides relevant definitions, and Appendix C specifies the information that you must submit to comply with this Information Request. You must submit all requested information to the EPA representative listed below within 30 calendar days from the date of this request. Please carefully review the instructions, definitions, and specific information request as you prepare your response.

The EPA issues this Information Request under Section 114(a) of the CAA, 42 U.S.C. § 7414(a). Under Section 114(a), the Administrator of the EPA may require any person who is subject to, among other provisions, Section 211 of the CAA, 42 U.S.C. § 7545, to provide information necessary to determine whether the person has acted or is acting in compliance with Section 211 and the regulations promulgated thereunder. This authority has been delegated this to the Director of the Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance.

Failure to provide the required information may result in an enforcement action pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries. It is important that your responses be clear, accurate, and complete. The EPA will regard submitted information that is misleading, false, incomplete, or submitted without regard to its accuracy, as a violation of the CAA or other applicable law.

Ever Cat Fuels LLC must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the enclosed information, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, and 18 U.S.C. §§ 1001 and 1341.

The EPA may use any information submitted in response to this request in administrative, civil, or criminal action(s).

You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this Information Request, in accordance with the procedures described in the

confidentiality of business information (CBI) regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your claim. Appendix D of this Information Request specifies the assertion and substantiation requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please submit all requested information, via courier service or overnight delivery, to:

Attn: Compliance Tracker, AE-18J
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

And electronically to gehrig.greg@epa.gov and cantello.nicole@epa.gov.

Any questions concerning this request for information should be directed to Gregory Gehrig at (312) 886-4434 or gehrig.greg@epa.gov.

7/23/2018
Date


Phillip A. Brooks, Director
Air Enforcement Division

Appendix A Instructions

1. Provide a complete, detailed response to each of the requests. For any narrative responses, respond in English, in written document form.
2. This Information Request is a continuing request. You must promptly supplement your response in the event that you learn that you possess responsive information not yet produced, or if you gain possession, custody, or control of responsive information after initially responding to this Information Request.
3. For each answer and the information produced, please provide the number of the question to which it responds and identify each person who provided information that was used to prepare that answer.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information necessary for a response is neither in your possession nor available to you, indicate in your response why the information is not available or in your possession and identify any source that either possesses, or is likely to possess, the information.
6. All submitted information should be copies and not original information.
7. Unless otherwise noted, provide the information requested in each item of Appendix C, for the period from January 1, 2015 until the date you respond to this Information Request.
8. For all information provided in response to this Information Request that evidences a transfer as defined below, identify whether the transfer was of title, ownership, physical custody of a product or commodity, or any combination of the three.
9. Please provide the certification statement in hard copy form with two electronic copies of your response on separate external hard (flash) drives.

Appendix B

Definitions

1. All terms used in this Information Request will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. § 7401 *et seq.*, or the implementing fuels regulations at 40 C.F.R. Part 80, Subpart M.
2. "Affiliate" or "affiliated" is used to indicate a relationship to a specified entity, and means any entity that, directly or indirectly or through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control with such entity.
3. "Ever Cat," "you" and "your" refers to Ever Cat Fuels LLC, including any affiliates, predecessors, successors, and assignees.
4. "Ever Cat's facility" means the registered facility with EPA ID 80065 and located at:

100 Isanti Parkway
Isanti, MN 55040
5. The term "information" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("email"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "information" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "information" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
6. "Person" or "entity" means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or

association.

7. The term “transfer” means every mode, direct or indirect, absolute or conditional, voluntary or involuntary of disposing of or parting with a product or commodity (e.g., feedstocks, Renewable Identification Numbers (RINs), renewable fuel) to or from a person or entity.

Appendix C Information Request

Ever Cat must submit a copy of the following information to the EPA, pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), within **30 calendar days** from the date of this Information Request.

1. Provide a detailed, written description of the corporate structure of Ever Cat and its affiliates, and any changes in the business structure from January 1, 2015 to the present. The description must include a timeline that explains: 1) all changes in the business structure of Ever Cat, and 2) all actions by Ever Cat to acquire any interest or control in any other entity.
2. Provide a list of employees for Ever Cat and a detailed, written description of their core job duties.
3. Provide a detailed, written description of the used cooking oil (UCO) collection operation located at 425 Dual Boulevard, Isanti, MN 55040 from January 1, 2013 to the present. The description should include: 1) the date on which this facility ceased UCO collection operation; and 2) the time period during which Ever Cat used feedstock collected at 425 Dual Boulevard, Isanti, MN 55040 to produce renewable fuel at Ever Cat's facility.
4. For each batch of renewable fuel that you produced from January 1, 2015 to the present, provide the information requested below and, where applicable, identify the batch number for which the information is associated. If the requested information cannot be related to a specific batch of renewable fuel, provide the information for each volume (e.g. truck load) of material that you purchased, sold, or otherwise transferred.
 - a. Provide a list, in the form of an unlocked, electronic spreadsheet, that identifies: 1) the date the batch was produced; 2) the batch number; 3) the address of the facility where the batch was produced; 4) the type of fuel (e.g., biodiesel, renewable diesel, heating oil, marine fuel, vegetable oil, ethanol) produced in each batch; and 5) the volume of fuel produced in each batch.
 - b. Provide a list, in the form of an unlocked, electronic spreadsheet, that identifies: 1) the type of feedstock that was used to produce each batch of renewable fuel; 2) the names and locations of each source, including any intermediary source, from which Ever Cat acquired the feedstock; 3) a point of contact and telephone number of each source; 4) the quantity of feedstock acquired from each source; and 5) the date Ever Cat acquired the feedstock from each source.
 - c. Provide all documents pertaining to the feedstock(s) identified in 4(b), including but not limited to, invoices, bills of lading, receipts, laboratory analyses, contracts, and purchase agreements.
 - d. Provide a list, in the form of an unlocked, electronic spreadsheet, that identifies: 1) the

quantity of methanol, acids, stabilizers, and any other chemicals used in the production of renewable fuel, and 2) the month and year in which the chemicals were purchased.

- e. Provide all documents pertaining to the chemicals identified in 4(d), including but not limited to, invoices, bills of lading, receipts, laboratory analyses, contracts, and purchase agreements.
 - f. Provide all documents pertaining to the sale or transfer of any byproducts, including but not limited to, glycerin or waste stream containing glycerin produced during the production of each batch of fuel.
 - g. Provide a list, in the form of an unlocked, electronic spreadsheet that identifies the purchaser(s) of each batch of renewable fuel and the destination of the fuel. Provide the requested information in the same format as electronic spreadsheets titled "Loadout Meter Reading Log 2017.xlsx" and "2017 Blend Sheet Log.xlsx" that Ever Cat previously provided to the EPA on April 18, 2018.
5. For each feedstock identified in response to request 4(b), above, that you claim qualifies as biogenic waste oils/fats/greases, provide a detailed narrative explanation regarding why you believe that the feedstock qualifies as biogenic waste oils/fats/greases and produce any and all documents that you believe support this claim, including but not limited to, any certification or contract with feedstock suppliers or collectors, and any test result for the feedstock. Please identify and provide all communications, verbal and written, with the EPA regarding the use of these feedstocks, excluding any discussions during the inspection that took place on April 18 and 19, 2018.
6. For each feedstock identified in response to request 4(b), above, that you claim qualifies as planted crops or crop residue, state whether the feedstock was from foreign agricultural land or U.S. agricultural land. If you claim that the feedstock was from U.S. agricultural land, state the basis for this claim and produce all documents showing that the feedstock was from U.S. agricultural land. If you claim that the feedstock was from foreign agricultural land, produce all records required by 40 C.F.R. § 80.1454(d)(3).
7. For any feedstock identified in request 4(b), above, that is composed, in whole or part, of methyl ester, fatty acid methyl ester, biodiesel, or off-spec biodiesel, explain whether the substance was used to produce biodiesel, whether RINs were generated for the final biodiesel, and how Ever Cat accounted for any fuel produced from the feedstock when generating RINs if RINs were generated.
8. Identify all biodiesel, Fatty Acid Methyl Ester, or a majority methyl ester product (collectively referred to as Biodiesel) that Ever Cat has received that was not identified as a feedstock in request 4(b), above. Provide all documents related to that receipt, a description of what Ever Cat did with that Biodiesel, and the purpose of Ever Cat receiving that Biodiesel.

9. Provide a detailed, narrative description of the Megyan® process, or any other process Ever Cat used to produce renewable fuel from January 1, 2015 to the present. The description should include example chemical reaction(s) and mass balance of chemical inputs and outputs of the process. Identify the chemical process, including inputs and outputs for a 1) 100% triglyceride feedstock; 2) 50% triglyceride/50% Free Fatty Acid feedstock; and 3) 100% Free Fatty Acid Feedstock scenario. Please identify and provide all communications, verbal and written, with the EPA regarding the use of this process, excluding any discussions during the inspection that took place on April 18 and 19, 2018.
10. For each batch of renewable fuel identified in request 4(a), above, state whether the fuel was produced via the esterification or transesterification process. If you believe the fuel was, either in whole or part, produced via transesterification, provide an estimate of the portion of renewable fuel produced via the transesterification process and provide all documents and calculations that support this estimate.
11. For any and all RFS2 Renewable Fuel Producer Co-products Report (e.g., RFS0700, RFS0701) that Ever Cat is required to submit under the RFS program from January 1, 2015 to the present, provide a detailed narrative explanation on how Ever Cat calculated the quantity of co-products in each report, including the equations and input parameters used for such calculations.
12. Provide a detailed, written description of Ever Cat's practice of tracking RIN separation, including how Ever Cat tracks a "running total" of RINs that Ever Cat claims can be separated during future RIN separation events. Explain how Ever Cat's practice complies with the requirements at 40 C.F.R. § 80.1452(c) regarding the reporting of applicable information to the EPA after a reportable RIN separation event. In addition, provide all documents that Ever Cat used to calculate and track the separation of RINs from each batch of fuel from January 1, 2015 to the present. An example of such a document is the electronic spreadsheet titled "2017 ECF RIN Batch Records.xlsx" that Ever Cat previously provided to the EPA on April 18, 2018.
13. Provide a list, in the form of an unlocked electronic spreadsheet, that shows for each day from January 1, 2015 to the present: 1) the volume of finished biodiesel stored at Ever Cat's facility; 2) the volume of finished biodiesel sold with assigned RINs, and 3) the volume of finished biodiesel sold without assigned RINs.
14. For every RIN separation transaction Ever Cat reported to the EPA Moderated Transaction System from January 1, 2015 to present with Reason Codes 70 (use in a non-road engine or vehicle), 30 (designation of renewable fuel and used without further blending as transportation fuel as per 40 C.F.R. § 80.1429(b)(4)), and 80 (designation of renewable fuel and used without further blending as heating oil or jet fuel as per 40 CFR 80.1429(b)(4)), provide all records required to be kept pursuant to 40 C.F.R. § 80.1454(b)(5) related to use of the fuel without further blending, in designated form.

Appendix D

Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Information Request for any business information entitled to confidential treatment under Section 114(c) of the CAA, 42 U.S.C. § 7414, and 40 C.F.R. Part 2, Subpart B. Under Section 114(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, Subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the CAA and 40 C.F.R. Part 2, Subpart B. The EPA will construe your failure to furnish a business confidentiality claim with your response to this Information Request as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this Information Request. Allegedly confidential portions of otherwise non-confidential information should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show: 1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e); 2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; 3) the information is not and has not been reasonably obtainable by legitimate means without your consent; and 4) the disclosure of the information is likely to cause substantial harm to your business’ competitive edge. See 40 C.F.R. § 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. See 42 U.S.C. § 7414(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information forwarded in response to this Information Request, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following questions with respect to any information for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

You must furnish comments to the above questions concurrent with your response to this Information Request if you have claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Nicole Cantello, Attorney-Advisor
U.S. Environmental Protection Agency
Region 5
77 W. Jackson Boulevard, C-14J
Chicago, Illinois 60604

And electronically to cantello.nicole@epa.gov.

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these questions, as provided in 40 C.F.R. § 2.203(b). By submitting this information, you are consenting to a limited release of any confidential business information to EPA legal interns pursuant to 40 C.F.R. § 2.209(f). The EPA's legal interns are required to sign confidentiality agreements as a requirement of their participation in EPA related matters. Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 114(e) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.

CERTIFICATE OF MAILING

I, [insert name], certify that I sent a Request for Information under Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a) by Certified Mail, Return Receipt Requested, to:

Mr. Steven Rupp
Vice President
100 Isanti Parkway
Isanti, MN 55040

on the 24th day of July 2018.

A handwritten signature in cursive script, appearing to read "John Caskey", written over a horizontal line.

Certified Mail Receipt Number: 7608 3230 6000 9450 5321



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C., 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

SUBJECT: Clean Air Act Section 114 Information Request to Ever Cat Fuels LLC (Renewable Fuel Standards)

FROM: Gregory Gehrig, Environmental Engineer
Region 5 Air Enforcement and Compliance Assurance Branch

Nicole Cantello, Attorney-Adviser
Region 5 Office of Regional Counsel

THRU: Melissa Schefski, Attorney-Adviser *MS*
Fuels Enforcement Branch

Jeff Kodish, Fuels Team Leader *JK*
Fuels Enforcement Branch

Anthony Miller, Chief *AM*
Fuels Enforcement Branch

TO: Phillip A. Brooks, Director
Air Enforcement Division

BACKGROUND

On April 18 and 19, 2018, the United States Environmental Protection Agency (EPA) Region 5 and EPA contractor Eastern Research Group, Inc. (ERG) inspected Ever Cat Fuels LLC's (Ever Cat) biodiesel production facility in Isanti, Minnesota. The inspection was conducted to investigate compliance with the second Renewable Fuel Standard (RFS2) requirements under 40 C.F.R. Part 80, Subpart M. The facility is grandfathered¹ under RFS2 and has a registered peak capacity of three million gallons of biodiesel per year. The facility produces biodiesel using a combination of virgin feedstock and waste vegetable oils via the Megyan® process, and generates biomass-based diesel (D4) RINs for the biodiesel produced.

Region 5 is taking the lead on this matter with assistance from the Fuels Enforcement Branch and ERG.

¹ The baseline volume of renewable fuel that is produced from facilities that commenced construction on or before December 19, 2007 is not subject to the 20 percent lifecycle GHG reduction threshold.

RIN GENERATION

The table below summarizes Ever Cat's RIN generation from January 2014 to March 2018. Ever Cat has not retired any RIN in EMTS to date².

D Code	RIN Year	Facility ID	Batch Volume (gal)	RIN Quantity	Fuel Type	Feedstock
D4	2014	80065	2,595,096	3,892,664	Biomass-Based Diesel	160, 200
D4	2015	80065	2,602,183	3,903,293	Biomass-Based Diesel	160, 200
D4	2016	80065	2,711,959	4,067,956	Biomass-Based Diesel	160
D4	2017	80065	2,861,634	4,292,467	Biomass-Based Diesel	160
D4	2018	80065	622,617	933,928	Biomass-Based Diesel	160
	Total		11,393,489	17,090,308		

Source: EMTS Data, downloaded 3/21/2018.

Note: None of the RINs generated by Ever Cat are QAP-verified.

Feedstock codes are 160 (Biogenic Waste Oils/Fats/Greases) and 200 (Non-food grade corn oil)

POTENTIAL AREAS OF CONCERN

The inspection team identified the following five potential areas of concern for which additional information is needed to determine Ever Cat's compliance with the RFS2 regulations:³

Processing of Methyl Ester and Off-spec Biodiesel

In 2017, Ever Cat received 2,625,240 pounds of feedstock from Liberty Commodities. The specific feedstock shipments in December 2017 were labeled as "CME [Canola Methyl Ester] Fatty Acid", a waste stream consisting of some off-spec biodiesel from Archer Daniels Midland's (ADM's) biodiesel plant in Velva, North Dakota. The inspection team believes other feedstock shipments supplied by Liberty also came from the same ADM plant and contain off-spec biodiesel, or transesterified methyl ester.

40 C.F.R. § 80.1426(f) requires producers of renewable fuels to generate RINs under an EPA-approved pathway. Ever Cat's processing of transesterified methyl ester (off-spec biodiesel) is inconsistent with the approved transesterification pathway in its registration. Additionally, 40 C.F.R. § 80.1460 prohibits RIN generation from a feedstock or through a process that is not described in the registration information.

² Based on RIN retirement information as of 7/2/2018.

³ The inspection team also identified a sixth potential area of concern related to 72 product transfer documents associated with 385,957 gallons of RIN-less, dyed B80 Ever Cat sold to Kerford Limestone in 2017 that did not contain the statement "No assigned RINs transferred," as required by 40 C.F.R. § 80.1453(a)(11)(iii).

Use of Free Fatty Acid as Feedstock

In 2017, Ever Cat purchased 7,955,560 pounds of feedstock from the Cargill vitamin E production plant located in Eddyville, Iowa. The feedstock sale contract between Cargill and Ever Cat (dated January 1, 2017) states that the vitamin E plant "has two waste vegetable oil streams, 60 percent [free fatty acid] and [greater than] 90 percent [free fatty acid]" and that Cargill will "use whichever material is available to fill the required volume shipments." In addition, the inspection team determined that at least some of the feedstock that Ever Cat purchased from Lindauer and Third Coast Commodities also contained high free fatty acid. In 2017, Ever Cat purchased 6,018,790 pounds of feedstock from Lindauer and 2,527,971 pounds of feedstock from Third Coast Commodities.

40 C.F.R. § 80.1426(f) requires producers of renewable fuels to generate RINs under an EPA-approved pathway. Ever Cat is registered to generate D4 RINs for fuel produced via the transesterification pathway; however, conversion of free fatty acid in Ever Cat's feedstock to biodiesel is an esterification process, which is not covered under the registered D4 pathway.

Glycerol Production

Ever Cat produces glycerol as a co-product, and ships waste materials containing glycerol to a methane digester. During the inspection, Ever Cat personnel explained that most glycerol is broken down into gaseous compounds in the reactor due to the high temperature used in Ever Cat's proprietary Megyan® process, and that Ever Cat does not monitor the quantity of glycerol generated. Rather, Ever Cat estimates glycerol generation in RFS0701 by assuming the feedstock consists of 50 percent triglyceride and 50 percent free fatty acid.

In its RFS2 Renewable Fuel Producer Co-products Report (RFS0701), Ever Cat reported producing 98,000-gallons of glycerol in 2017. However, the inspection team found that Ever Cat only shipped 31,400-gallons of liquid mixture containing an unknown amount of glycerol during the same time period.

40 C.F.R. § 80.1451(b)(1)(ii)(N) requires any producer of renewable fuel who generates RINs to submit to EPA reports that include the quantity of co-products produced in each quarter. Under 40 C.F.R. § 80.1451(i), all reports shall follow procedures prescribed by the Administrator. The inspection team believes Ever Cat overestimates the triglyceride content of its feedstock sources and inaccurately reports glycerol generation in its RFS0701. EPA uses reports of co-products to ensure that renewable fuel production is appropriate. Failing to properly report co-products makes EPA checking on compliance problematic and difficult.

Separated Food Waste Plan

At the time of inspection, Ever Cat did not have a Separated Food Waste Plan that accurately reflects its sources of separated food wastes. Ever Cat's existing Separated Food Waste Plan (dated October 18, 2013) describes a used cooking oil collection facility that has not been in operation for approximately three to four years.

Under 40 C.F.R. § 80.1450(b)(1)(vii)(B), producers of renewable fuel made from separated food waste per § 80.1426(f)(5)(i)(B) must provide to EPA: 1) the location of any facility from which the waste

stream consisting solely of separated food waste is collected; and 2) a plan documenting how the waste will be collected, how the cellulosic and non-cellulosic portions of the waste will be quantified, and for ongoing verification that such waste consists only of food waste (and incidental other components such as paper and plastics) that is kept separate since generation from other waste materials.

Per the inspection team's recommendation, Ever Cat updated its Separated Food Waste Plan and provided a copy to the inspection team via email on May 8, 2018⁴.

RIN Separation

Ever Cat assigns a "batch" of renewable fuel in EMTS on a weekly basis to represent the aggregate of all fuels sold and shipped during that preceding week, and generates 1.5 D4 RIN per gallon of biodiesel in that batch. In some cases, Ever Cat may sell an individual shipment (or sub-batch) of fuel to the customer without RINs. Ever Cat explained that some customers do not want to purchase biodiesel with RINs because they are not registered with the EPA, or do not wish to enter the RIN market. In other cases, Ever Cat may splash blend an individual shipment of fuel with diesel and sell it as B80, creating a qualifying "separation event" where Ever Cat is allowed to separate up to 2.5 RINs per gallon of blended renewable fuel. In both cases, Ever Cat records the quantity of biodiesel sold without RINs, and tracks a "running total" of the number of RINs that can be separated. Ever Cat then separates these RINs in EMTS, up to the "running total" quantity, at a later date.

Under 40 C.F.R. § 80.1452(e), each time any party separates RINs, the separation information must be submitted to EPA via the submitting party's EMTS account within five (5) business days of the reportable event. The reportable event for a RIN separation or retirement occurs on the date of separation or retirement as described in 40 C.F.R. § 80.1429. Under 40 C.F.R. § 80.1429(b)(2), any party that owns a volume of renewable fuel must separate any RINs that have been assigned to that volume once the volume is blended with gasoline or fossil-based diesel to produce a transportation fuel, heating oil, or jet fuel. A party may separate up to 2.5 RINs per gallon of blended renewable fuel. Under 40 C.F.R. § 80.1428(a)(5)(i), the number of assigned RINs owned at the end of each quarter with a K code of 1 must not exceed 2.5 times the volume of renewable fuel owned on that date. At the time of the EPA inspection, it was unclear if Ever Cat is separating RINs in accordance with the time constraints in § 80.1452, or if their inventory of assigned RINs ever exceeded 2.5 times the volume of product in storage at the facility.

REQUESTED INFORMATION

The enclosed information request is targeted to assist the EPA in further evaluating the potential areas of concern set forth above.

RECOMMENDATION

We recommend that you sign the enclosed CAA Section 114 Information Request.

⁴ The inspection team also recommended that Ever Cat submit a copy of the updated plan to OTAQ.

AED ROUTING & TRANSMITTAL SLIP
~ FUELS ENFORCEMENT BRANCH ~

SUBJECT: Ever Cat Information Request (Renewable Fuel Standard)

DATE: July 16, 2018

DUE DATE (if any): none

CONTROL NUMBER (if any): none

EXPEDITED? Y N

ACTIONS/SIGNATURES/CONCURRENCES REQUIRED:

	ACTION REQUIRED	INITIALS	DATE
Filename of Document as it Appears in G Drive:	G:\AIR\TYPING\MSEB\Ever Cat\Ever Cat 114 G:\AIR\TYPING\MSEB\Ever Cat\Ever Cat 114 Action memo		
Gregory Gehrig (R5)	Initial		
Nichole Cantello (R5)	Initial		
Melissa Schefski	Initial	MS	7/16/18
Jeff Kodish	Concurrence	JK	7/16/18
Tony Miller	Concurrence	ASM	7/16/18
Julia Bunnell	Receive/Route	JB	7/23/18
Tawanna Cathey	Log in	TC	7/23/18
Apple Chapman	Concurrence		
Phillip A. Brooks	Review and Signature	PAB	7/23/18
Tawanna Cathey	Log out	TC	7/23/18

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